

GSUM Radar

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Colombia

New chance for peace



Venezuela

Negotiation and mediation of political conflict



BRICS Policy Center Centro de Estudos e Pesquisas - BRICS



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Global South Unit for Mediation



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New chance for peace

One month and ten days after the popular rejection of the peace agreement signed on September 26, based on intense discussions with the political leaders of the “No” campaign, the Colombian government and the Revolutionary Armed Forces of Colombia (FARC) reached new consensus. At the beginning of the month, President Juan Manuel Santos announced the delegations were entering a “**conclave mode**”, so that the renegotiation could be concluded by the end of November. On the 8th of November, Santos confirmed that the parties had achieved “**important advances**”, observing that “**five complete days have taken place, each with sessions of 12 hours, in which were addressed topics [about agrarian reform, the fight against drugs and victim reparation]**”.

On November 12, by means of the **Joint Statement #4**, the parties announced a new agreement and its imminent publication for public consultation. In his **official statement**, President Santos thanked the social sectors involved in the renegotiation and observed that, of the 57 topics selected from hundreds of proposals received, 56 were modified in the agreement. After praising the original agreement and clarifying the main modifications it suffered, Santos stated that he recognized with humility that “**this is [...] a better agreement**”. Iván Márquez, lead negotiator of FARC, said that this is the “**Agreement of Hope**” and said that the guerrilla group had given in “**up to the reasonable and acceptable limits for a politico-military organization whose arms were never defeated**”. In line with the reiterated international and regional support for the peace process, various actors **celebrated** that success (*some official statements below*).

The publication of the **current complete text** triggered a series of **analyses** of the fundamental differences between the two agreements. Three principal points of adaptation deserve to be highlighted: (i) the transitional justice and the agreement on victims; (ii) the legal reception of the agreements; (iii) the gender focus. The point about justice and victims suffered some changes, among which is a larger specification of the liberty restrictions to be applied by sentences imposed on perpetrators. The Special Jurisdiction for Peace (JEP) had its scope somewhat reduced and more subjected to the Colombian legal system. The current agreement, moreover, is more rigorous in relation to the “responsibility of command” for war crimes, and excludes from the transitional justice system those who committed crimes envisaging personal enrichment – which will permit, for example, the imposition of longer sentences to perpetrators of **false positives** via

common justice. It was decided, finally, that all the possessions of the guerrilla army will be taken into inventory and destined for the payment of reparations to victims of the conflict.

The legal reception of the agreements, which originally guaranteed them the status of international agreement and protected them from eventual legislative changes, was also adapted. The fear of FARC in respect to the vulnerability of the agreements to future political oscillations was the principal reason for this change of method. After opposition protests, however, the new agreement will give constitutional status only to the clauses referring to human rights and international humanitarian law.

The focus on gender – source of much controversy during the campaign of the referendum and the renegotiation process (*see Radar n.21*) – received adjustments of language to comply with demands from both religious, conservative sectors and LGBT groups. The new accord says (p. 192): “No content of the Final Agreement will be understood and interpreted as a negation, restriction or impairment of the rights of persons independent of their sex, age, religious beliefs, opinions, ethnic identity, belonging to the LGBT population, or for any other reason; neither of the right of free development of personality and of the right to freedom of thought”. Days before the publication of the text, President Santos was already trying to disassociate the agreement from this controversy and differentiate the focus of gender from the so-called “gender theory” boasted by the opposition, stating also that “discussions about gay marriage are not and will not be part of the Agreement”.

Despite signs sent by the *Centro Democrático* party that it may request additional alterations to the agreement, Santos was emphatic that the accord is closed and will not be sent back to Havana. Once more, the eyes of Colombians turned to the President – not only because of the decision pending about the form of referendum to be used for the new agreement, but also, recently, because of his trip to the United States to have medical tests. Santos must choose between three methods of approval: (i) the holding of a second referendum, which seems unlikely at this point; (ii) a vote in Congress, where the government has a majority; or (iii) a local endorsement process (*cabildos abiertos*) with citizen participation. Despite the swift conclusion of the new agreement, the government is still running in a race against time – this year's congressional activities will end on December 16 and, on November 16, the killing of two guerrillas by the Armed Forces in the department of Bolívar raised tensions and exposed the fragility of the current cease-fire.

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❖ Fundación Ideas para la Paz (FIP)

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❖ La Silla Vacía

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❖ Fundación Paz & Reconciliación

El ELN en el territorio colombiano. (08/11/16): <https://goo.gl/lrPiza>

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❖ Las 2 Orillas

Los dos acuerdos de paz: ¿dónde están las diferencias? Textos completos. (15/11/16): <https://goo.gl/VKiKyV>

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❖ President of Colombia

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Declaración del Jefe de la Delegación del Gobierno, Humberto de la Calle. (12/11/16): <https://goo.gl/AEJgy3>

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❖ FARC-EP

Discurso de cierre del Acuerdo Definitivo de Paz de las FARC-EP. (12/11/16): <https://goo.gl/KRpHT3>

❖ Mesa de Conversaciones

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❖ United Nations (ONU)

Secretary-General Commends Cessation of Hostilities, Ongoing Efforts to Conclude Peace Agreement in Colombia. (13/11/16): <https://goo.gl/MtIQQT>

❖ **Union of South American Nations (UNASUL)**

Comunicado de la Secretaría General de UNASUR sobre el Nuevo Acuerdo de Paz en Colombia. (14/11/16): <https://goo.gl/YWC0rn>

❖ **Organization of American States (OEA)**

OAS Secretary General Congratulates Colombia on a Decisive Step toward an Inclusive Peace Agreement. (13/11/16): <https://goo.gl/avIVgG>

❖ **Foreign Ministry of Brazil**

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Venezuela

Negotiation and mediation of political conflict

Venezuelans are witnessing a delicate dialogue between the Venezuelan government and the opposition. Following the talks on October 30 and 31 (*see Radar n.21*), the envoy of the Vatican to Venezuela, Monsignor Claudio Maria Celli, in an interview with the Argentine newspaper La Nación, stated that "*the Holy See [only] follows the process*" and reiterated that the two sides of the negotiation are aware that it is necessary to choose between "the way of violence and the way of dialogue". However, Monsignor Celli expressed concern when he stated that "*if the national dialogue fails, it may lead to bloodshed*".

Despite the *insecurity around the process*, on November 11 the second round of negotiations between the government and the opposition took place. The dialogue was seen by many as *fruitful*, and culminated with the decision of new guidelines for specific areas. In the socio-economic field, government and opposition *agreed to work together* and decided to prioritize the adoption of measures for the supply of drugs and food. In the political sphere, both parties will seek to overcome the tensions between the National Assembly and the High Court of Justice and will strive to jointly decide, with the

government and the opposition, the two new representatives of the National Electoral Council (CNE) of Venezuela. In the context of national sovereignty and territorial integrity, both the government and the opposition affirmed, through a unanimous decision, the concern with the defense of the legitimate and inalienable rights of Venezuela against the territory of Guyana Essequiba.

Furthermore, it was decided that a governor for each party involved in the process will be appointed. Representatives of the main sectors of society will also be invited. Another important element was the establishment of a Follow-up Commission to give continuity to the process. This commission will be coordinated by the ex-President of Spain, José Luis Zapatero, and will include the participation of a member of the government – Jorge Rodríguez – and a member of the opposition – Luis Aquiles Moreno, member of the Table of Democratic Unity party (MUD).

At the end of the meeting, the government and the opposition of Venezuela read and ratified together the joint statement “**Living in Peace**”. In the document, the parties commit themselves to restricting disputes only to the democratic sphere, to overcoming the economic difficulties faced by the country, and to thinking about a new joint effort of “**fighting against citizen insecurity and criminal violence**”. The next phase of negotiations will take place on December 6 and the parties involved in the dialogue have until this date to achieve their sides of the agreement. The process was received positively by the Secretary General of the Organisation of American States (OEA), Luis Almagro, who understands “**the way of negotiation and dialogue as a principal tool for reaching solutions to problems**”. The support of the OEA was also given by way of a note to the Permanent Council of the institution, which made itself available to “**collaborate with these efforts**”. However, the process has not been immune to criticism. The non-governmental organization PROVEA stated that “**it regrets the absence of vital topics, like the agreement about the electoral schedule**”.

Other political, social and economic themes also received attention in the media in recent weeks. The non-governmental organization Amnesty International accused the Venezuelan government of denying medical treatment to an opposition leader, Rosmit Mantilla. Mantilla is a member of the Venezuelan parliament and a human rights activist. Detained in Caracas, the activist needs medical care. According to the Director for the Americas of the organization, “**if the authorities do not act, they will have blood on their hands**”. Amnesty International stressed that not providing health care to imprisoned

persons may “violate the absolute prohibition on torture and other cruel, inhuman and degrading treatments”.

Another decision of the Venezuelan government which drew attention was the extension of the state of emergency. President Nicolás Maduro extended it, and the state of economic emergency, for the fifth time. The announcement of the extension was made during Maduro's weekly program, when he said that such a decision allows the president to **manage the economic situation and govern the crisis**. During this period of exceptionality, Maduro can use state resources without the need for Parliament's control and is also free to restrict the financial system and access to local or foreign currency in the manner he deems most appropriate. However, the question is **even more complex as this request for extension was denied by Parliament**. On November 15, the National Assembly disapproved of the extension of Decree 2,548, responsible for the state of emergency.

In addition to the above case, the Superior Court of Justice (TSJ) of Venezuela has stated that the National Assembly is prohibited from acting against the Constitution. In addition, the TSJ has prohibited any type of **"act that changes public order [and] conducts investigations against authorities and public authorities"**. Decree 948 was not well received by the opposition, which stated that the document hurts the **"current spirit of dialogue"**.

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❖ **International Crisis Group**

Can the Vatican Pull Venezuela Back from the Brink? (08/11/16): <https://goo.gl/ckO4XW>

❖ **PROVEA**

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Declaración del Consejo Permanente en apoyo al proceso de diálogo nacional en Venezuela. (16/11/16): <https://goo.gl/wR7PgE>

❖ **National Assembly**

Casal: Este martes se inicia el juicio político y legal contra el Presidente de la República. (24/10/16): <https://goo.gl/Sz71OW>

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❖ **Superior Justice Tribunal**

TSJ admite acción ejercida por la procuraduría general de república. (15/11/16): <https://goo.gl/q1DuyG>

❖ **Union of South American Nations (UNASUL)**

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❖ **PROVEA**

Ningún diálogo puede avalar violación y desconocimiento de derechos constitucionales. (14/11/16): <https://goo.gl/TfQ3yV>

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The GSUM Radar is a biweekly monitoring platform of the current Latin American conflicts.
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